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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,) CASE NO. 18-CR-00258 EJD
16 Plaintiff,)
17 v.) STIPULATION AND [PROPOSED] ORDER
18 RAMESH BALWANI,) REGARDING TRIAL SCHEDULE
19 Defendant.)
20 _____)

STIPULATION

1. This matter is currently set for trial on February 15, 2022.

2. On January 5, 2022, the United States District Court for the Northern District of California, through the Clerk of Court, announced that “[e]ffective immediately, due to recent developments in the COVID-19 public health emergency, including the rapid spread of the Omicron variant, all criminal and civil jury trials in the U.S. District Court for the Northern District of California will be suspended until after January 26, 2022.”

3. Later on January 5, 2022, the Court scheduled a status conference in this matter for January 7, 2022.

4. On January 7, 2022, during the status conference, the Court advised the parties that the jury trial suspension announced on January 5, 2022, applies to this matter and limits the Court's ability to convene and instruct a venire of potential jurors and supervise the potential jurors' completion of a juror questionnaire necessary for the selection of a fair and impartial jury.

5. On January 7, 2022, as reflected in the transcript of the proceedings, the parties and the Court discussed means of bringing this matter to trial on the scheduled trial date, but did not reach a resolution of the issues presented by the COVID-19 public health emergency, including the rapid spread of the Omicron variant.

6. On January 7, 2022, the Court, through its Courtroom Deputy, provided an alternative schedule to the parties and solicited their input.

7. Mr. Balwani recognizes that the Court has deemed the continuance of the trial to be necessary in the interests of justice to protect the health and welfare of the public and all participants in the trial. Accordingly, the parties stipulate and agree that, under these circumstances, including the Northern District of California's January 5, 2022 order suspending jury trials, an exclusion of time under the Speedy Trial Act through March 9, 2022, is appropriate and consent to entry of an order excluding the time from February 15, 2022 to March 9, 2022 from computation under the Speedy Trial Act and finding that the exclusion of time serves the ends of justice and outweighs the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A) & (B).

8. The parties, having met and conferred, stipulate and agree, and respectfully request that the Court order, that the Court adopt the following schedule:

Friday, February 4, 2022 (9:00 a.m.):

Hearing on motions *in limine* and pretrial conference (the parties remain available on Feb. 7-12 in the event the Court determines additional time is necessary for the hearing). The parties request that the Court hold this hearing in person if possible.

Tuesday, March 1, 2022 (9:00 a.m.):

Final pretrial conference (juror questionnaires must be finalized and copied by counsel for distribution to the venire)

Thursday, March 3, 2022:

First group of jurors shall report to the Courthouse
on to fill out questionnaires

Friday, March 4, 2022:

Second group of jurors shall report to the Courthouse to fill out questionnaires. The parties will take the completed questionnaires and make the necessary copies to ensure effective review by the parties and the Court.

Tuesday, March 7, 2022 (9:00 a.m.):

Conference to review the completed questionnaires

Wednesday, March 9, 2022 (9:00 a.m.):

Jury selection

Thursday, March 10, 2022 (9:00 a.m.):

Jury selection

Tuesday, March 15, 2022 (9:00 a.m.):

Jury selection (if necessary) / opening statements / beginning of evidence

9. The parties stipulate and agree that the Court shall enter the proposed order below and that the hearing currently set for January 12, 2022 shall be vacated.

IT IS SO STIPULATED.

1 DATED: January 11, 2022

Respectfully submitted,

2 STEPHANIE M. HINDS
3 United States Attorney

4 */s/ Robert S. Leach*

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JEFF SCHENK
6 JOHN C. BOSTIC
7 ROBERT S. LEACH
8 KELLY I. VOLKAR
9 Assistant United States Attorneys

10 DATED: January 11, 2022

11 Respectfully submitted,

12 ORRICK HERRINGTON & SUTCLIFFE
13 LLP

14 */s/ Amy Walsh*

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JEFFREY B. COOPERSMITH
16 AMY WALSH
17 STEPHEN A. CAZARES
18 Attorneys for Defendant
19 RAMESH BALWANI

[PROPOSED] ORDER

2 Based upon the facts set forth in the stipulation of the parties and the representations made to the
3 Court, and for good cause shown, including those stated at the January 7, 2022 status conference, the
4 trial of this matter, currently set for February 15, 2022, shall be continued March 9, 2022, at 9:00 a.m.
5 For good cause shown based on the facts set forth in the stipulation of the parties and representations at
6 the January 7, 2022 status conference, the Court finds that the ends of justice served by continuing the
7 trial from February 15, 2022, to March 9, 2022, outweigh the best interest of the public and the
8 defendant in a speedy trial, considering, among other factors, that the failure to grant such a continuance
9 in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a
10 miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(A) & (B). Therefore, and with the consent of the
11 parties, IT IS HEREBY ORDERED that the time from February 15, 2022, to March 9, 2022, shall be
12 excluded from computation under the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(A), (B). The Court
13 adopts and ORDERS the schedule set forth in the stipulation. The hearing currently set for January 12,
14 2022 is VACATED.

IT IS SO ORDERED.

16 | DATED: January , 2022

HON. EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE